

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE CAMPAIGN FOR BUFFALO HISTORY,
ARCHITECTURE & CULTURE, INC.,

Petitioner,
vs.

Civil Action No: _____

BUFFALO AND FORT ERIE PUBLIC BRIDGE
AUTHORITY,

New York State Supreme Court
Erie County Index No.: I2012-1976

Respondent.

Certified Record of Proceedings

Part 9

subdivided this property into individual lots and drew a radial street plan centered on what is now known as Niagara Square. As settlers moved in, they changed the name of the Village to Buffalo, and replaced the Dutch names of streets in Ellicott's plan to names that would reflect the village's American frontier character. The tiny village would grow to a few hundred residents before being burned to the ground by the British on New Year's Eve in 1813.

In 1810 New York State formed the Erie Canal Commission to explore the possibility of constructing a canal connecting the East Coast with the shores of Lake Erie. The decision of where to locate the canal's western terminus was a source of controversy that would not be resolved as easily. People such as Samuel Wilkeson, William Peacock, and Ebenezer Johnson became powerful advocates of harbor construction in Buffalo. By 1825 the improvements of the harbor were completed highlighted by a limestone-timber pier constructed at the mouth of Buffalo Creek that replaced an earlier pier that fell into the lake during a flood.⁸ This sheltered the waterway from the lake and prevented sand from accumulating at the harbor's entrance. This pier remains in place today, still serving its original purpose.

Thanks to the work of Joseph Ellicott and his associates, Buffalo now possessed the necessary infrastructure for port activity and, perhaps more importantly, was home to an emerging, politically active, elite leadership class. These two ingredients would be necessary in order for Buffalo to achieve the rapid growth that would follow the opening of the Erie Canal. Between the years 1810 and 1860, Buffalo went from a sleepy frontier village of about 1,500 people, to a bustling, densely populated port city of over 81,000 people. The new arrivals were a diverse group of people from different classes and ethnic backgrounds who were attracted to Buffalo by the push from their homeland and the pull of opportunity from commerce. Much of Buffalo's present day cultural identity, economic activity, architecture, as well as the spatial development of the city have their roots in the social development that occurred as a result of the rise of commerce in the nineteenth century.

When the Erie Canal opened in 1825, it opened America's Midwestern frontier to new settlement. As people flowed west, cargo poured back east with Buffalo in prime position to transfer these goods from Great Lakes vessels to canal barges. The Erie Canal allowed freight to be shipped at one tenth the cost of prior overland shipment.⁹ Within a few years, railroad companies established lines in Buffalo to supplement, and compete with the canal. These would greatly expand Buffalo's shipping capacity as the city could handle more cargo and maintain shipping routes during winter months when the lake and canal were frozen. The Buffalo-Niagara Falls railroad line opened in 1842 connecting the two cities along a route along the shore of the Niagara River. The line crossed the canal at

⁸Stone, William L., and George W. Clinton. *The Holland Land Co., and Canal Construction, in Western New York Buffalo-Black Rock Harbor Papers, Journals and Documents*. Buffalo: Anton and Times, 1910, p173.

⁹ Dunn, Edward T. *A History of Railroads in Western New York*. Buffalo, NY: Canisius College, 2000, p2.

a site immediately beneath Fort Porter. The combination of rail and canal traffic enhanced the region's growth leading to more immigration and more investment.

Buffalo quickly became the dominant port in the Great Lakes for the transshipment of grain to the east from the farms of the Midwest. Grain had to be unloaded from large, Great Lakes vessels, stored, and then reloaded onto smaller canal boats. The storage problem was solved with the invention by Joseph Dart and Robert Dunbar of the steam powered "Dart Elevator". Joseph Dart's bucket elevator raised grain from lake boats to storage bins where it could be stored before being lowered for milling or transshipment. Erected in 1842 it was the first of its kind in the world. The "marine tower" was a further improvement that allowed grain to be unloaded quickly from the lake boat. The "arm" of the marine tower would be lowered into the hull of the lake boat and "scoops" attached to a vertical conveyor removed the grain and transported it for storage in the bins. Soon after, numerous grain elevators rose up along the Buffalo River. By 1875 Buffalo was the largest grain port in the world and by 1900 it was the third largest port of any kind in the United States.

The increased shipping capacity led to an explosion in the demand for real estate along Buffalo's waterfront. Conditions along the canal and harbors became crowded and polluted from all of the various users competing for space along Buffalo's transshipment network. The poor conditions contributed to the desire to dedicate large portions of the city into parkland. In the 1870s, Frederick Law Olmstead designed a network of parks and parkways throughout the city including The Front, The Bank and Porter Avenue. *The Front* was the original name for what would become known as Front Park. Front Park was placed on a triangular shaped parcel atop a bluff overlooking the confluence of the Niagara River and Lake Erie. The park was built around Fort Porter which became situated at the new park's northern edge. The "Castle", modeled after a Scottish castle and part of Fort Porter added to the picturesque qualities of the setting.¹⁰ Olmsted's original vision for the park was that it would integrate Fort Porter into *The Front's* landscape, and between 1884 and 1885 a public drive was opened through the grounds of Fort Porter, allowing additional access to and views of the Niagara River. At this time scenic areas of the fort were freed up for park use. *The Front* and Fort Porter were an integrated landscape. In 1895 Front Avenue, the western boundary of the park and fort, was designated as a parkway. Porter Avenue was a greenway that, along with Richmond Avenue, connected Front Park with Delaware Park. Front Park, its associated parkways, and Fort Porter created a bucolic refuge along a waterfront dominated by commerce.

¹⁰ In 1836 Colonel James McKay built "The Castle", modeled after a Scottish castle, complete with towers and crenellations on a bluff overlooking Lake Erie and the Niagara River, and Canada. The site was considered a relatively strategic military site, and in 1841 the house and land became part of a government acquisition of land that would become Fort Porter, named after General Peter B. Porter. The residence was used as the Commandant's Quarters and a square masonry single-story redoubt 62' square with crenelated walls, surrounded by a moat and large earthworks was constructed. It burned in November 1863. During the Civil War it was used as Headquarters of the 74th Regiment, NYNG and barracks were constructed. The Fort was active during the Spanish American War (1898), and World War I (1917-1918, the war began in Europe in 1914). After World War I it was used as US General Hospital 4 for returning wounded.

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The presence of the park and parkway, and Fort Porter resulted in a dramatically different form of development taking place in the surrounding neighborhood. Much of the land along the harbor and adjoining railroad line was filled with factories, shipyards, freight houses, grain elevators and modest worker housing. The area of the waterfront along Front Park became sought after by the city's emerging upper class who built large homes and opulent mansions in this neighborhood in Buffalo's West Side. It became an exclusive residential enclave on a waterfront that was otherwise used for transshipment.

The role of the neighborhood around Front Park and Fort Porter as an exclusive enclave was relatively short lived. As Buffalo's railroads increased the city's capacity as a port, it also enabled large-scale industrial production. These industries established massive factories which were a significant factor in attracting a second wave of European immigrants to Buffalo. Thousands of mostly Italian newcomers poured into Buffalo's West Side between the 1890s and 1920s. Large houses were subdivided into apartment buildings and multi-family properties were constructed wherever space could be found. This transformed the area around Front Park from a wealthy waterfront retreat to a bustling immigrant community.

In 1927, the Peace Bridge was constructed with its United States landing built over the "Bank" section of Front Park. Front Avenue was renamed Busti Avenue in 1929. In 1949, the Niagara Thruway was constructed over the Erie Canal portion of the Park effectively separating it from the lake and river. In 1926 Fort Porter was sold and the buildings demolished to provide approaches for the new Peace Bridge. The Castle, which was located on bridge land was moved by the city and used by the Buffalo Parks Department. When the Peace Bridge plaza was expanded in 1953 the Castle was demolished.

Building History

The parcel of land on which the residence at 793 Busti Avenue was constructed is first recorded in the Abstract of Title on September 22, 1835. The parcel is owned by a number of individuals, including the "The Rector, Church Wardens and Vestrymen of Saint Mary's Church of the City of Buffalo", who also owned three parcels to the south.¹¹ By September 1876 the parcel was sold to Jacob Davis and John Irlbacker.

Jacob Davis and John Irlbacker owned "Irlbacker & Davis (J.I. & J. D.)" a plumbing, gas and steam fitting company. Although the two owned the parcel at 793 Front Avenue until 1891, neither lived there. Between the years 1876 – 1886 Davis lived at 458 Pearl Street, and in 1887 he moved to 1320 Main Street, his residence in 1891. Irlbacker resided at 261 Oak Street between 1876 and 1887 before moving to 704 Ellicott Street where he was living when the property at 793 Front Avenue was sold. The 1891 G.M. Hopkins Atlas notes "Jacob Davis" as owning the property at 793 Front Avenue, in addition to the two

¹¹ The parcels are listed as "Church Property" on the 1872 Hopkins Atlas.

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properties located to the south at 787 and 785 Front Avenue.¹² It is likely that Davis and Irlbacker bought the land and built the residences as investments.

A search of City Directories between 1876 and 1885 show no one residing at 793 Front Street. There is also no record of the address in the 1880 Federal Census. The 1884 G.M. Hopkins & Company Map show a residence on the parcel. In 1886 H. Fletcher Shuttleworth, who worked for the Banner Milling Company and Henry J. Shuttleworth, a banker, are listed in the City Directory as residing at 793 Front Avenue, the previous year they lived at 35 North Pearl.

Between 1887 and 1889 Clarence J. Fillmore, a manager at Gratwick, Smith & Fay Lumber Company in Tonawanda lived at 793 Front Avenue.

The 1890 Federal Census shows Christian Hagen living at 793 Front Avenue, as head of the household, with his two sons and a daughter. A boarder, Beatrice A. Todd also lived in the residence. Hagen took title of the property in January 1891. In 1901 the property was foreclosed upon and sold to John H. and Charles W. Toynbee. Neither Toynbee resided at the property.

At the end of April 1904 Charles and John Toynbee sold the property to James V. McElroy. Interestingly in January 1905 records in the Abstract of Title show the following transaction “James McElroy, bachelor To Anges McElroy”. The 1910 Federal Census for 793 Front Avenue lists Agnes as James’ wife. McElroy, who is a carpenter, is listed in the 1905 City Directory as residing at 793 Front Avenue. Fred J. Easton, a salesman, also lives at 793 Front Avenue suggesting that the property had been turned into a two family residence by this time.

In 1918 Agnes McElroy sold the property to Pasquale Digiacome and his wife Angela, who lived there until 1920 when they sold it to Domenico Nigrelli, whose legal name was Thomas, and his wife Lucia.¹³ The couple owned the property for the entirety of their lives. The “Petition for Probate of Will” for Domenico, who died on May 8, 1981 was filed on November 27, 1984, leaving the property to Lucia. The Abstract of Title cites the will of Lucy Nigrelli, dated November 24, 1943 and probated on November 28, 1984 as leaving 793 Busti Avenue to her son Salvatore.¹⁴

In January 1990 Salvatore Nigrelli sold the property to Stephen F. Leous, Susan C. Leous and Thomas P. Cody. In April 1998 the Leous’ and Cody sold the property to the Buffalo and Fort Erie Public Bridge Authority.

¹² The property that was located at 785 Front Avenue is now a vacant lot. The current address of 787 Front Avenue is now 791 Busti Avenue.

¹³ As recorded in the Will of Lucy Nigrelli dated November 24, 1943, which became part of the property title, the Nigrelli’s owned a number of properties in the City, including 775, 783 and 787 Busti Avenue.

¹⁴ The property at 775 Busti Avenue was left to her son Russell, while the property at 783 Busti was left to her five sons to “share alike”.

SOURCES OF INFORMATION

Drawing

Drawings were produced for the Clough Harbour & Associates, LLP *Structural Condition Inspection and Site Analysis Of: 757, 765, 771, 777, 783, 791, & 791 Busti Avenue, Buffalo New York.*

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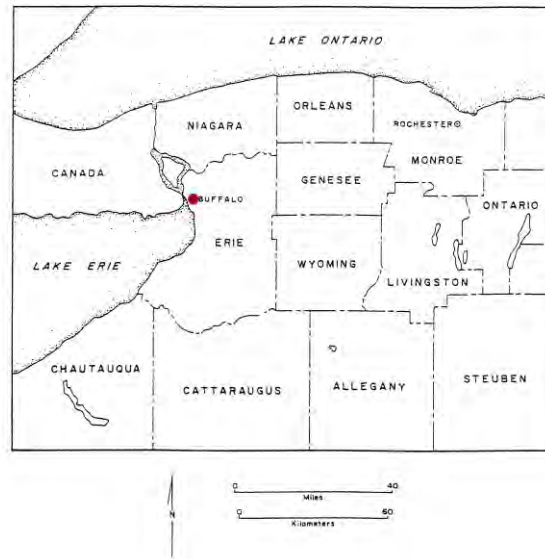


Figure 1. The General Location of Busti Avenue (aka 6th Street and Front Avenue) in western New York State.

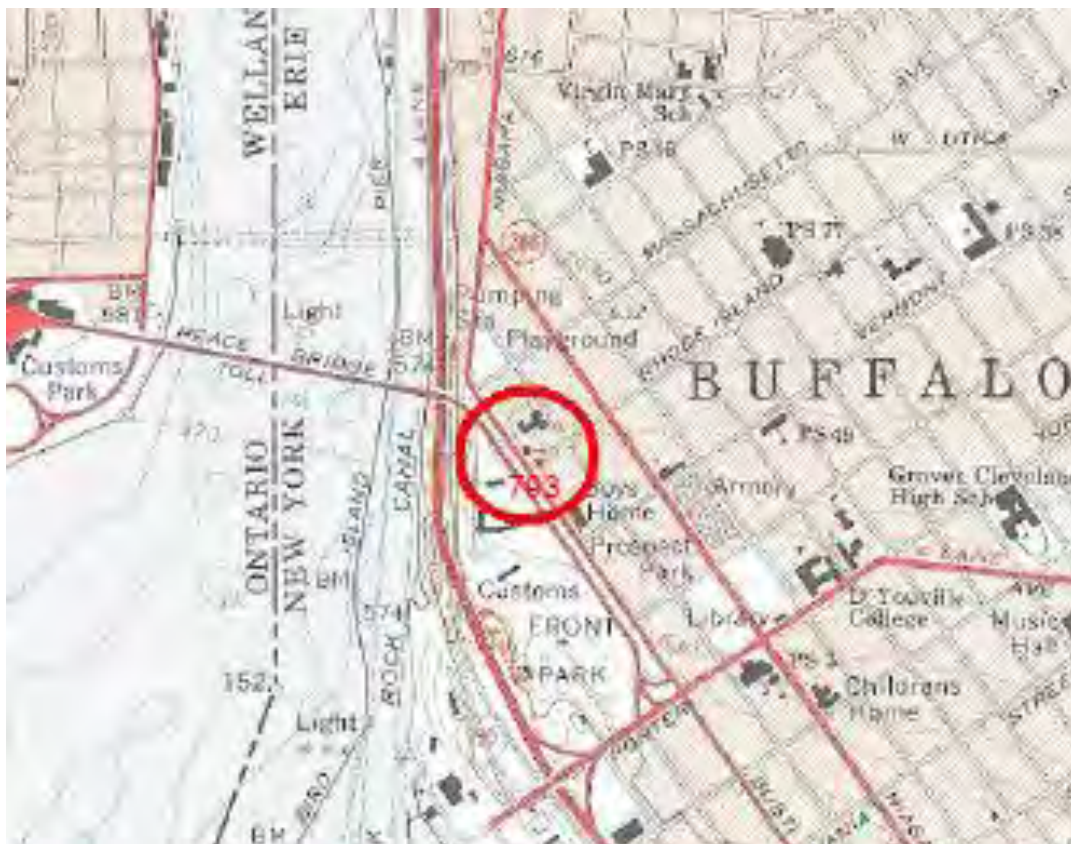


Figure 2. Overview map of the location of 793 Busti Avenue (aka 6th Street and Front Avenue) on the 1965 Buffalo SW, New York USGS 7.5 Minute Series Quadrangle.

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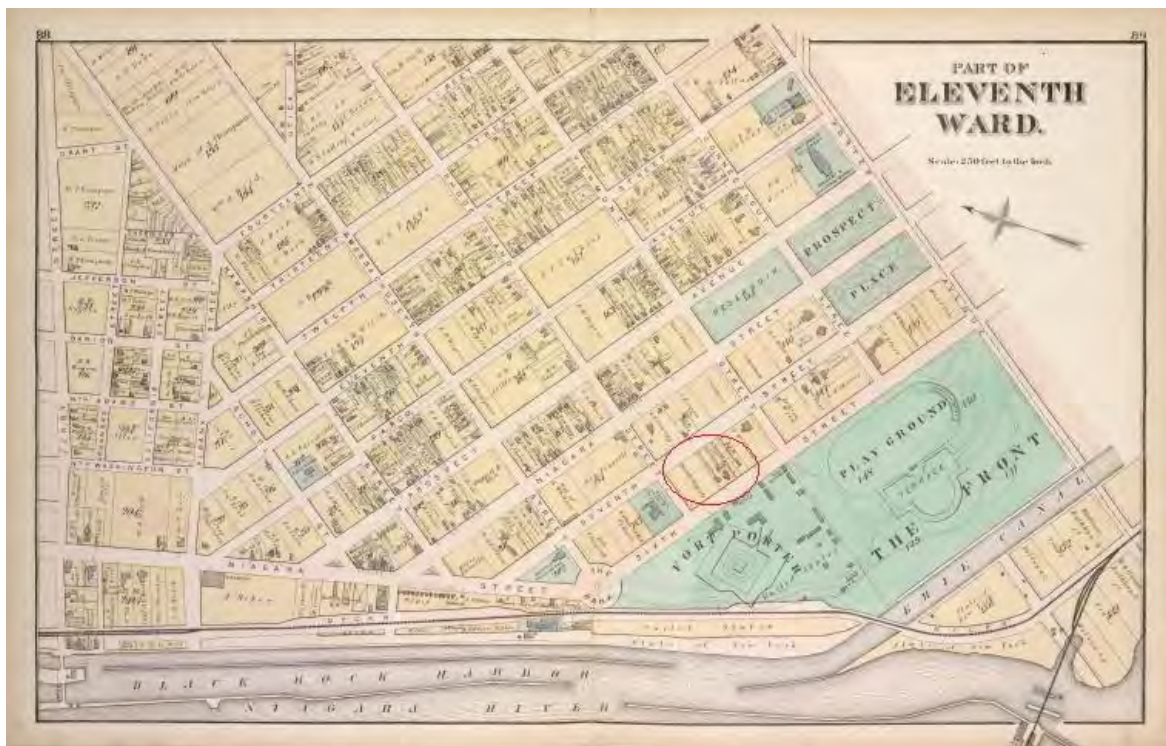


Figure 3. Sixth Street (aka Front Avenue and Busti Avenue) on the 1872 G. M. Hopkins & Company Atlas of the City of Buffalo. Note: There are no buildings at 793 Sixth Street.

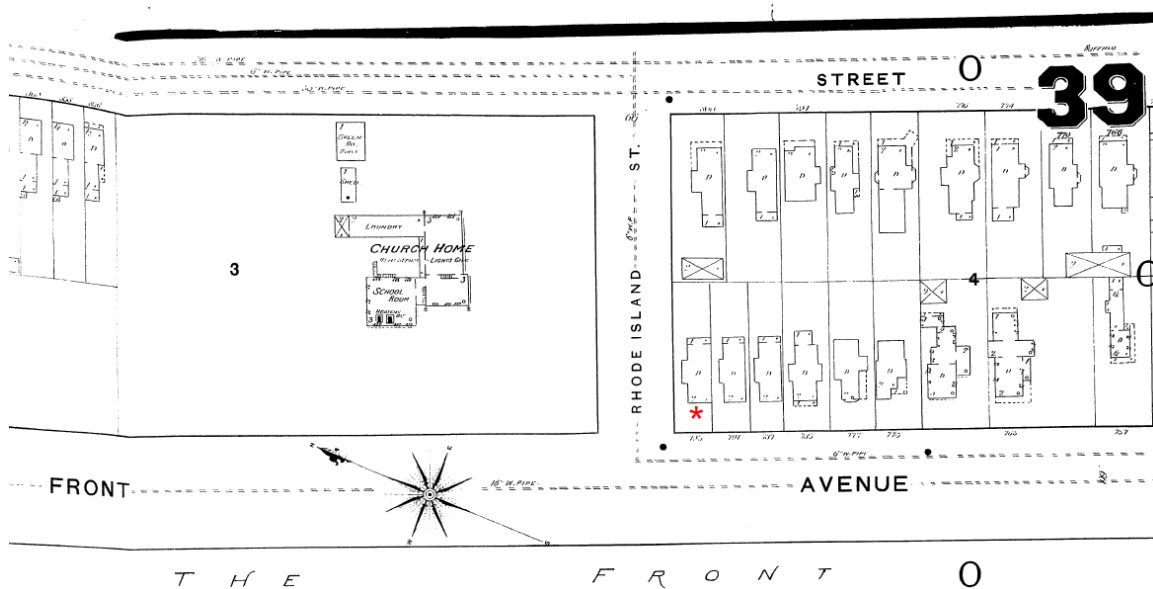


Figure 4. 1889 Fire Insurance Map of Buffalo, N.Y., volume 1 sheet 39b (Sanborn Map Company).

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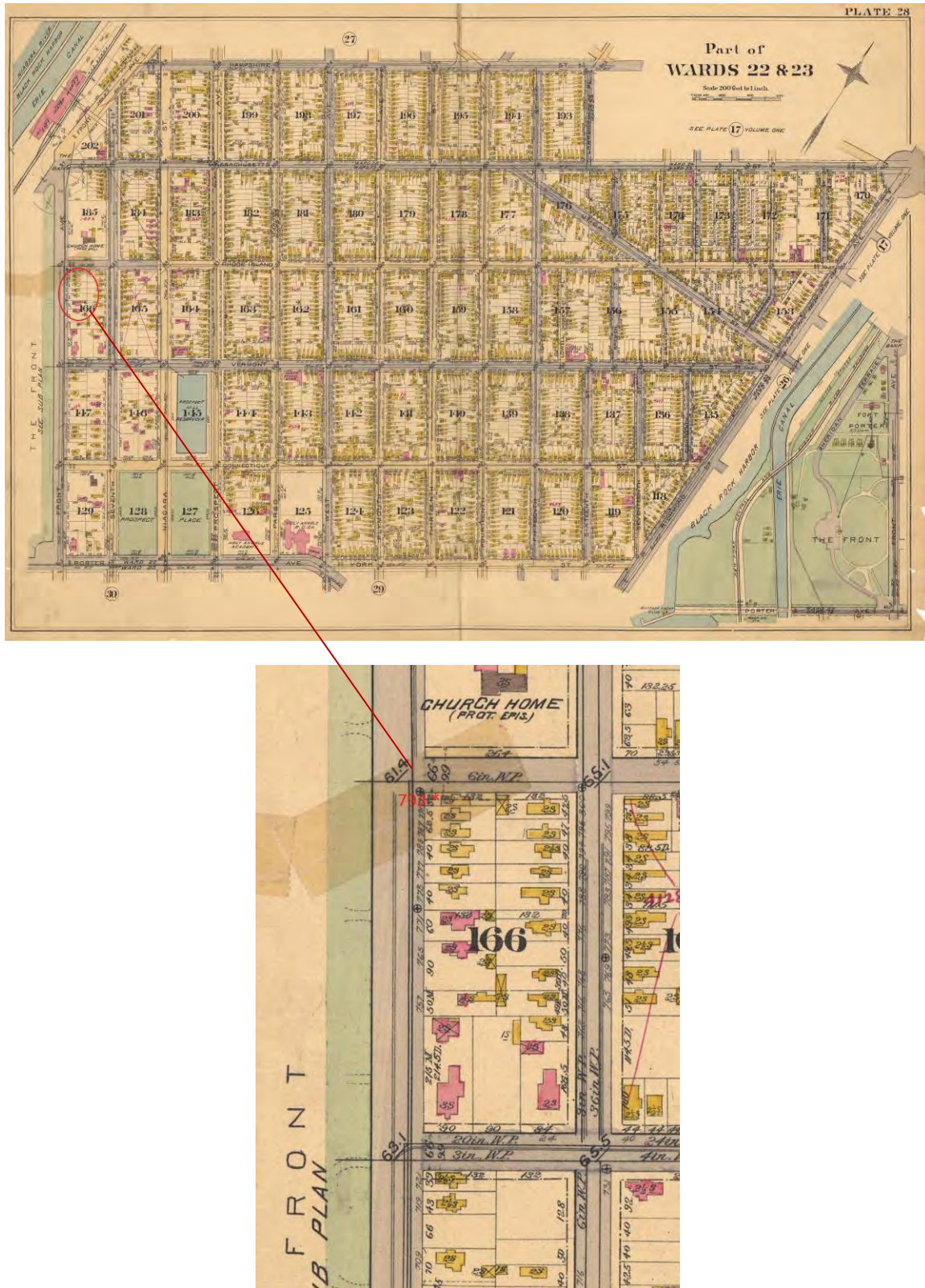


Figure 5. 1894 City of Buffalo Atlas, Volume 2, Plate 28 showing detailed view of 771 Front Avenue (Busti Avenue).

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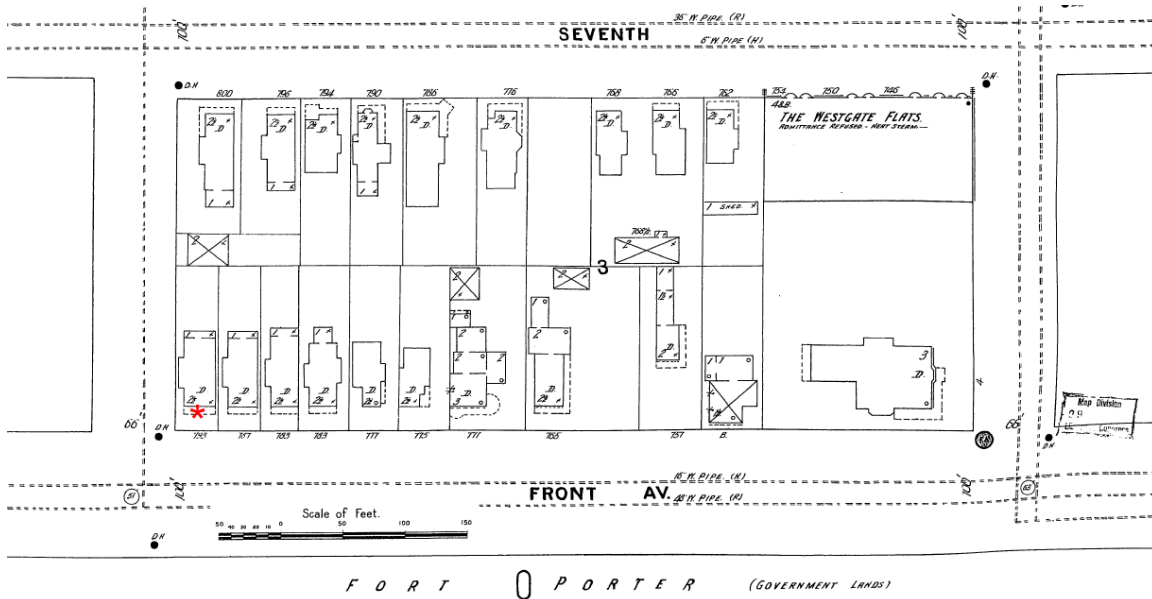


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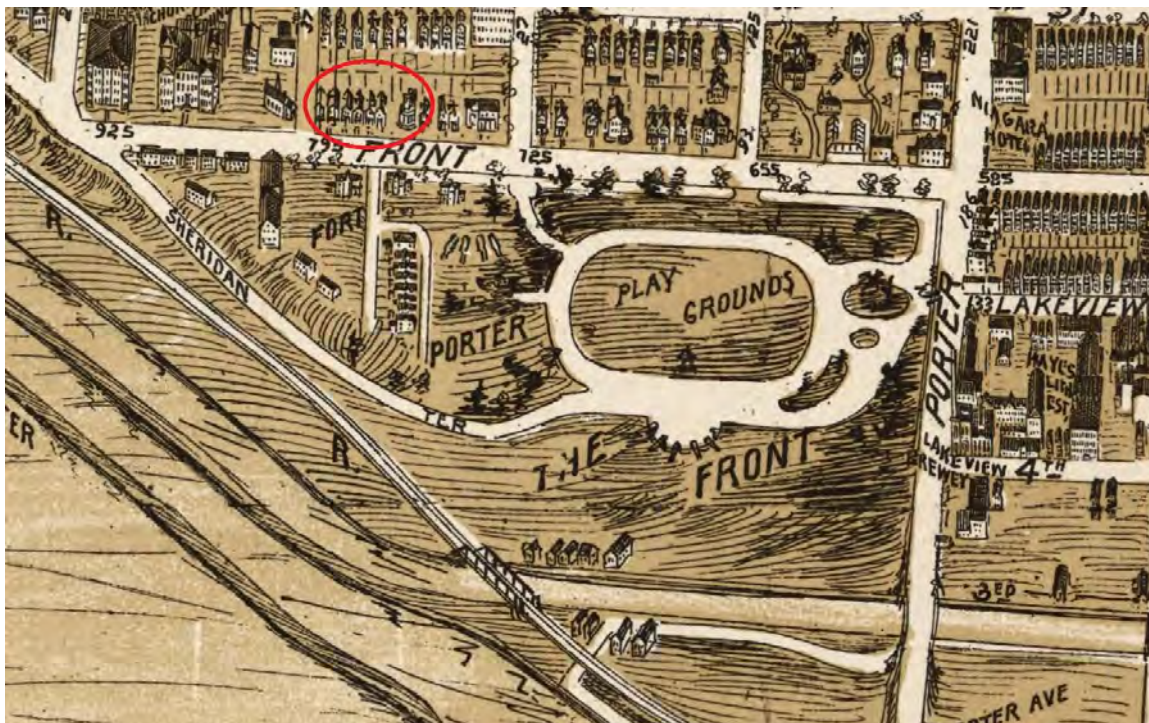


Figure 7. Portion of 1902 Landis & Alsop Bird's Eye View of Buffalo showing general context for 793 Front Avenue (aka Sixth Street and Busti Avenue).

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Figure 8. Detail from 1902 Landis & Alsop Bird's Eye View of Buffalo showing 793 Front Avenue (aka Sixth Street and Busti Avenue).

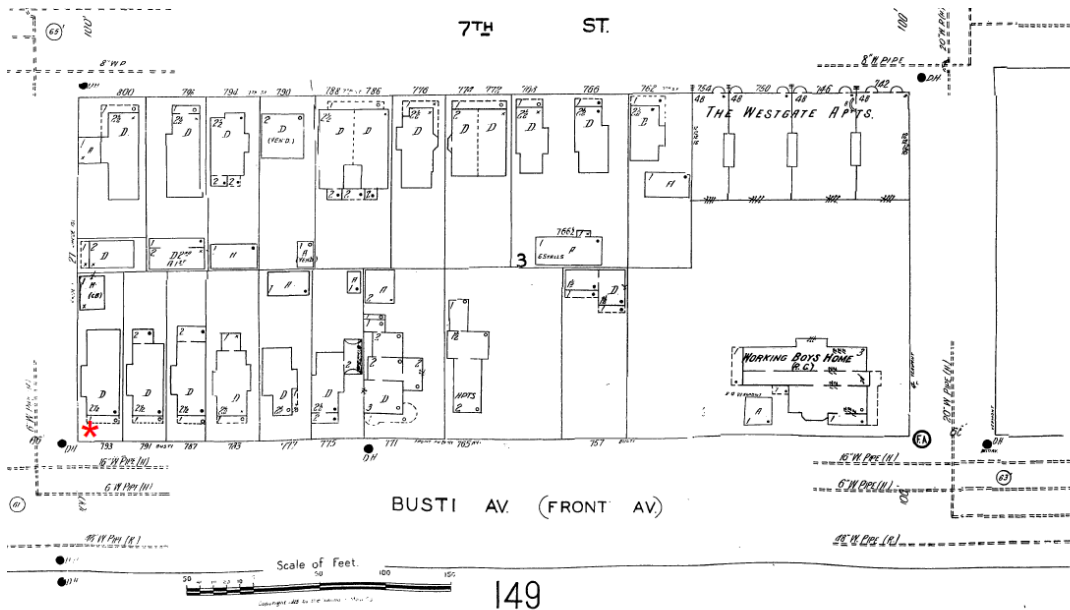


Figure 9. 1925 Fire Insurance Map of Buffalo, N.Y., volume 1A sheet 137 (Sanborn Map Company).

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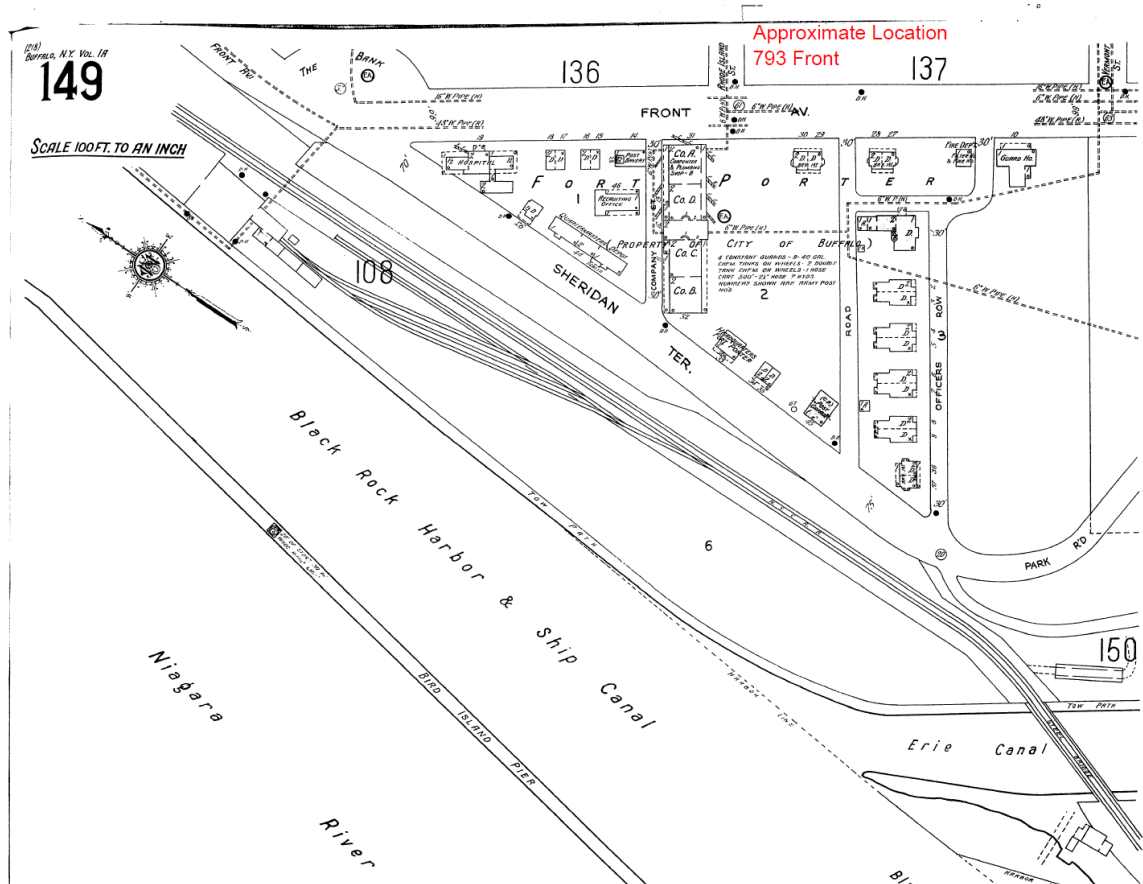


Figure 10. 1925 Fire Insurance Map of Buffalo, N.Y., volume 1A sheet 149 (Sanborn Map Company) Showing Fort Porter. Note Approximate Location of 793 Front Avenue (aka Sixth Street and Busti Avenue).

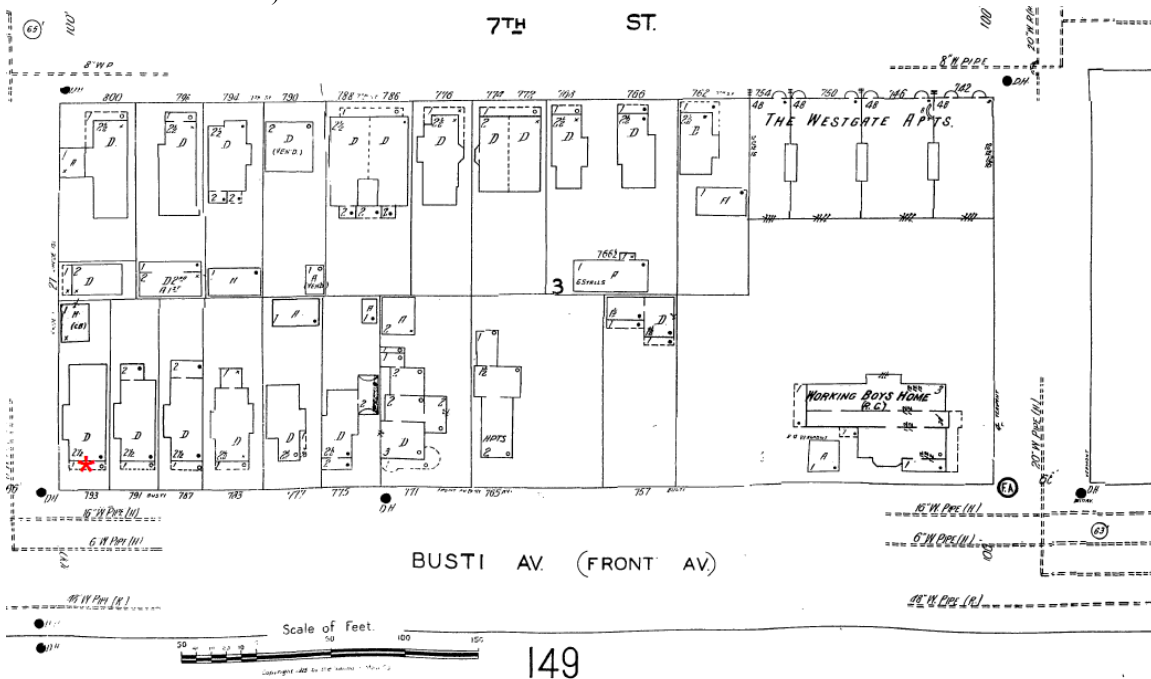


Figure 11. 1951 Fire Insurance Map of Buffalo, N.Y., volume 1A sheet 137 (Sanborn Map Company).

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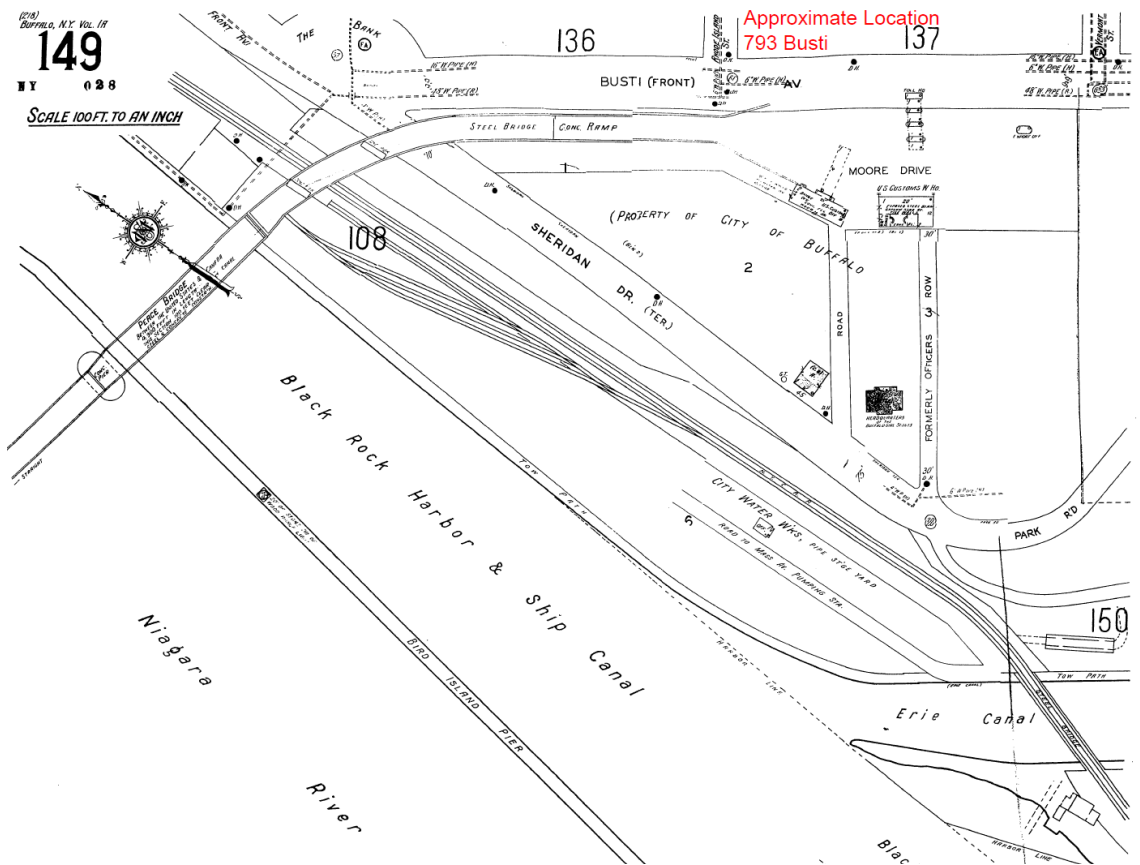


Figure 12. 1951 Fire Insurance Map of Buffalo, N.Y., volume 1A sheet 149 (Sanborn Map Company) Showing Peace Bridge. Note Approximate Location of 793 Busti Avenue (aka Sixth Street and Front Avenue).

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 1

Exterior

West elevation looking east. Note proportional difference between window triplet at first and second floors.

PHOTO 2

Exterior

West and south elevations looking northeast.

PHOTO 3

Exterior

South elevation looking northwest showing fenestration.

PHOTO 4

Exterior

South elevation first floor window looking northwest. Note first floor windows are typically six-over-one. Second floor windows are typically two-over-two.

PHOTO 5

Exterior

South elevation second floor window. Note second floor windows are typically two-over-two. First floor windows are typically six-over-one.

PHOTO 6

Exterior

West and north elevations looking southeast. Note differences in lights at second and first floor windows. Also porch posts and detail not consistent with side porch north elevation.

PHOTO 7

Exterior

North elevation looking south.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 8

Exterior

East and north elevations looking southwest showing hip-roofed addition at east gable.
Note turned post and fascia detailing at porch.

PHOTO 9

Exterior

Side porch at north elevation looking south showing turned post and fascia detailing.
Note patching at second floor window suggesting an alteration of original fenestration.

PHOTO 10

Exterior

Detail showing intersection of eaves at addition to east gable, north elevation.

PHOTO 11

Exterior

Detail showing change in foundation material at north elevation looking south.

PHOTO 12

Exterior

North elevation garage looking south.

PHOTO 13

Interior Main Hall/Stair

Entry hall looking east.

PHOTO 14

Interior Main Hall/Stair

Detail of newel post.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 15

Interior Main Hall/Stair

Entry hall looking southwest showing detail at stringer, and turned posts

PHOTO 16

Interior Main Hall/Stair

Door under stair providing access to basement looking southwest.

PHOTO 17

Interior Main Hall/Stair

Entry hall looking west toward door.

PHOTO 18

Interior Main Hall/Stair

Midpoint of stair looking northwest showing handrail, tread and detail at ceiling-wall junction.

PHOTO 19

Interior Main Hall/Stair

Looking west from stair showing ornamental detailing at ceiling-wall junction.

PHOTO 20

Interior Main Hall/Stair

Looking west from stair showing main entrance and door to front parlor.

PHOTO 21

Interior Main Hall/Stair

Detail, ornamental plaster cornice and modillion entry hall looking east.

PHOTO 22

Interior Main Hall/Stair

Detail of ornamental plaster cornice, entry hall looking northeast.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 23

Interior Main Hall/Stair

Stair detail where landing meets first floor ceiling.

PHOTO 24

Interior Main Hall/Stair

Detail of door surround and baseboard at entry to front parlor, southeast face. Note patch at baseboard. Typical four areas at opening.

PHOTO 25

Interior Main Hall/Stair

Detail of door surround and baseboard at entry to front parlor, southwest face. Note patch at baseboard. Typical four areas at opening.

PHOTO 26

Interior First Floor Front Parlor

Detail of door surround and baseboard at entry to front parlor, northeast face. Note patch at baseboard. Typical four areas at opening.

PHOTO 27

Interior First Floor Front Parlor

Detail of door surround and baseboard at entry to front parlor, northwest face. Note patch at baseboard. Typical four areas at opening.

PHOTO 28

Interior First Floor Front Parlor

Looking south from front parlor, first floor apartment. Note patching at baseboard

PHOTO 29

Interior First Floor Front Parlor

Front parlor, first floor apartment looking southwest toward entrance.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 30

Interior First Floor Front Parlor

Front parlor first floor apartment looking northeast towards back parlor.

PHOTO 31

Interior First Floor Front Parlor

View from back parlor to front parlor looking southwest, first floor apartment

PHOTO 32

Interior First Floor Back Parlor

View to front parlor from back parlor looking west, first floor apartment.

PHOTO 33

Interior First Floor Back Parlor

Back parlor looking northeast toward kitchen.

PHOTO 34

Interior First Floor Back Parlor

Looking south from back parlor into bedrooms.

PHOTO 35

Interior First Floor Back Parlor

Door to bedroom from back parlor first floor apartment showing area where baseboard was patched to infill door. Looking south.

PHOTO 36

Interior First Floor Back Parlor

Detail of door surround and baseboard at entry to bedrooms from back parlor, northeast face. Note patch at baseboard. Typical four areas at opening.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 37

Interior First Floor Bedrooms

East bedroom looking east toward door to kitchen (north) and back service corridor (south).

PHOTO 38

Interior First Floor Bedrooms

West bedroom looking northeast toward east bedroom and entrance to back parlor.

PHOTO 39

Interior First Floor Bedrooms

East bedroom looking east showing ornamental plaster cornice above dropped ceiling. Note detailing is similar to entrance hall.

PHOTO 40

Interior First Floor Bedrooms

Detail of ornamental plaster cornice along north wall, east bedroom.

PHOTO 41

Interior First Floor Bedrooms

Utility closet looking southeast.

PHOTO 42

Interior First Floor Side Entry Hall

View looking west toward parlors from hall connecting to kitchen

PHOTO 43

Interior First Floor Side Entry Hall

View into kitchen from back parlor looking southeast showing service stair to second floor.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 44

Interior First Floor Kitchen

Looking west from kitchen. Note hall to back parlor is to the north (right) and hall to bedroom spaces is to the south (left).

PHOTO 45

Interior First Floor Kitchen

Kitchen looking southeast toward pantry. Note bathroom along south wall.

PHOTO 46

Interior First Floor Kitchen

Bathroom to south of kitchen first floor.

PHOTO 47

Interior First Floor Pantry

View into northeast corner pantry from kitchen.

PHOTO 48

Interior First Floor Pantry

View toward built-in cabinets along north wall of pantry.

PHOTO 49

Interior First Floor Pantry

View into southeast corner pantry from kitchen.

PHOTO 50

Interior Second Floor Main Stair

Looking west from top of stair. Note stair to attic located to the north (right).

PHOTO 51

Interior Second Floor Main Stair

View from second floor landing looking west showing original ceiling height.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 52

Interior Second Floor

Doors at second floor landing looking north. Note detailing of threshold and door surround to east (right) suggests alterations.

PHOTO 53

Interior Second Floor

Doors at second floor landing looking north. Note detailing of door surround to east (right) suggests alterations.

PHOTO 54

Interior Second Floor Kitchen

Looking northeast from kitchen toward back parlor and corridor accessing bedroom wing.

PHOTO 55

Interior Second Floor Back Parlor

Looking northwest from back parlor towards front parlor.

PHOTO 56

Interior Second Floor Back Parlor

Fireplace north wall back parlor looking northwest.

PHOTO 57

Interior Second Floor Back Parlor

Looking south from back parlor toward door at top of stair landing. Note "Moorish" arch.

PHOTO 58

Interior Second Floor Parlors

Looking southwest from back parlor towards front parlor.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 59

Interior Second Floor Front Parlor

Front parlor second floor apartment looking northeast.

PHOTO 60

Interior Second Floor Front Parlor

Looking southeast from front parlor to back parlor. Entry to kitchen is at southeast corner of back parlor.

PHOTO 61

Interior Second Floor Front Parlor

Front parlor, second floor apartment looking southeast. Note stair to attic.

PHOTO 62

Interior Second Floor Back Parlor

Front parlor second floor apartment looking northeast.

PHOTO 63

Interior Second Floor Bedroom Wing

Looking east from kitchen to bedroom wing corridor. Note door to back stair to north (left).

PHOTO 64

Interior Second Floor Bedroom Wing

Back stair to first floor looking north.

PHOTO 65

Interior Second Floor Bedroom Wing

Looking west from bedroom wing to kitchen and main stair.

PHOTO 66

Interior Second Floor Bedroom Wing

Looking north toward bathroom and bedroom wing.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 67

Interior Second Floor Bedroom Wing

Looking northeast into bedroom. Typical.

PHOTO 68

Interior Second Floor Bedroom Wing

Looking east from within corridor toward built-in linen closet and bedroom space.

PHOTO 69

Interior Attic Stair

Looking west toward attic from second floor.

PHOTO 70

Interior Attic

Finished attic space with skylight looking east.

PHOTO 71

Interior Attic

Unfinished attic space looking east.

PHOTO 72

View Shed

Looking north toward Hutchinson Memorial Chapel and Episcopal Church Home (both are vacant).

PHOTO 73

View Shed

Looking northwest toward Peace Bridge Plaza

PHOTO 74

View Shed

Looking west.

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**793 BUSTI AVENUE
PHOTO CAPTIONS**

PHOTO 75

View Shed

Looking southwest.

793 BUSTI AVENUE
Photo Angles



Drawing Adapted from "Structural Conditions
Inspection" CHA.



PHOTO 1

Exterior

West elevation looking east.
Note proportional difference
between window triplet at 1st
and second floors.



PHOTO 2

Exterior

West and south elevations
looking northeast.



PHOTO 3

Exterior

South elevation looking
northwest showing fenestration.



PHOTO 4

Exterior

South elevation first floor window looking northwest. Note first floor windows are typically six-over-one. Second floor windows are typically two-over-two.



PHOTO 5

Exterior

South elevation second floor window. Note second floor windows are typically two-over-two. First floor windows are typically six-over-one.



PHOTO 6

Exterior

West and north elevations looking southeast. Note differences in lights at second and first floor windows. Also porch posts and detail not consistent with side porch north elevation.